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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,646	10/23/2003	Toru Hirayu	50195-397	9146

7590 04/21/2006

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EXAMINER

WALTERS, JOHN DANIEL

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,646

Applicant(s)

HIRAYU, TORU

Examiner

John D. Walters

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/10/2006</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claims 1 – 12 have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 3 and 7 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admission of prior art in view of Harasaki et al. (4,392,545). Applicant's admission discloses a structure for mounting an engine for a vehicle comprising:

- a supporting member (Fig. 7, item 7) for supporting the engine on a front side of the engine with a space provided between the engine and the supporting member (Fig. 7, item 18);
- a first bracket affixed to the engine at a first point (Fig. 7, item 2);
- said first bracket supported by the supporting member at a second point lower than the first point (Fig. 7).

Applicant's admission does not teach the placement of auxiliary equipment in the space formed by said supporting member and said bracket. Harasaki, however, discloses an engine mounting system comprising:

- an auxiliary machine, i.e. differential gear device, (Fig. 5, item 18) disposed in a space between a supporting member and an engine;
- said auxiliary machine overlapping vertically with said supporting member (Fig. 10);
- a gap between said auxiliary machine and said supporting member (Fig. 10).

In regards to claims 1, 7, 10 and 11, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to manufacture the components within an engine compartment in such a way that the components closest to the outer perimeter of said compartment are of a lesser strength than the components further into said compartment. This enables the "crumple zone" of the vehicle to form in such a way that the outer structure deforms to dissipate impact energy while gradually stiffening as the impact propagates towards an occupant/operator.

In regards to claim 3, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to place any auxiliary machine generally attached to an engine in the space formed by said supporting member and said bracket. As a starter motor is a standard engine accessory, it would be obvious to place it within said opening.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use the auxiliary machine placement of Harasaki with the engine mount structure of Applicant's admission in order to add rigidity to the "crumple zone" formed within a forward portion of said engine compartment.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admission of prior art in view of Harasaki et al. (4,392,545) as applied to claims 1 – 3 and 7 above, and further in view of Park (6,386,309). Applicant's admission of prior art in view of Harasaki fails to disclose a channel shaped supporting member. Park, however, discloses a mount assembly comprising:

- a supporting member formed in a channel shape open forward (Fig. 2,item 18).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the open channel bracket of Park with the engine mount structure of Applicant's admission in view of Harasaki in order to remove weight from the vehicle.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admission of prior art in view of Harasaki et al. (4,392,545) as applied to claims 1 – 3 and 7 above, and further in view of Noboru (JP 55-136660). Applicant's admission of prior art in view of Harasaki fails to disclose the use of strength reduction features within structural components of said engine compartment. Noboru, however, discloses a frame structure comprising:

- a support member with a fragile portion which reduces the strength of the supporting member in the longitudinal direction of the vehicle (Fig. 4);
- wherein said fragile portion comprises a pair of vertically extending embossed beads (Fig. 4, item 3).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the engine mount structure of Applicant's admission in view of

Harasaki with the frame features of Noboru in order to provide appropriate impact absorptive characteristics.

Response to Arguments

Applicant's arguments, see page 6, filed 3/23/2006, with respect to the figures have been fully considered and are persuasive. The objection of 11/23/2005 has been withdrawn.

Applicant's arguments, with regards to rejections under 35 U.S.C. § 103 filed 3/23/2006 have been fully considered but they are not persuasive.

Applicant states, "Claims 1 – 3 and 7...the AAPA teaches away from including auxiliary equipment in the space between the engine and the supporting member."

Applicant's Admitted Prior Art (AAPA), as demonstrated in figure 7, clearly show a space or gap between an engine and a supporting member. Thus, when combined with the teaching of Harasaki of placing an auxiliary machine within a space between an engine and a support member provide appropriate art in regards to Applicant's invention.

Applicant also states, "...one of ordinary skill in the art would not have been realistically motivated to modify the AAPA with Harasaki...a limitation is Applicant's own disclosure...forbidden territory for the Examiner to obtain the requisite motivation."

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant states, "Claim 4...Claims 5 – 6...incorporates herein the arguments previously advanced in traversal of the rejection of claims 1 – 3 and 7..."

See the reply above relating to claims 1 – 3 and 7.

For these reasons, the rejection stands.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

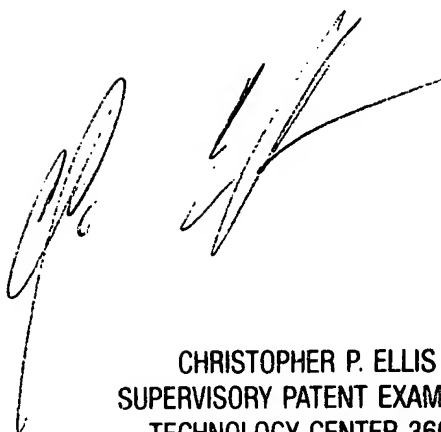
John D. Walters

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JDW



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